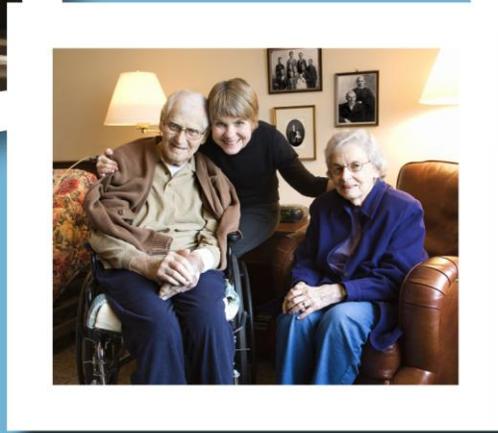


Best Practices for Home and Community-Based Ombudsmen

National Direct Service Workforce Resource Center



*Prepared By:
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Best Practices for Home and Community-Based Ombudsmen

Note to Reader: *This report focuses on services provided outside of facilities and uses the acronym HCBS to refer to services for individuals in their own homes and communities outside of facilities.*

The ombudsman program is administered by the Administration on Aging, which is now part of the Administration for Community Living. The network has 9,065 volunteers certified to handle complaints and more than 1,100 paid staff. Most state ombudsman programs are housed in their State Unit on Aging. Nationally, in 2011 the ombudsman program investigated over 204,044 complaints in 134,775 cases and provided information on long-term care to another 405,466 people. (AoA/AGID, 2011)

Ombudsmen are trained to resolve problems; they are professionals who investigate complaints when something has been handled badly or unfairly, and their services are free to the public.¹ This report will begin with an overview of Ombudsman programs on a national level, examine the various roles and responsibilities of Ombudsmen particularly to those that work in Home and Community Based Services (HCBS), and then identify how different states utilize Ombudsmen in this sector. Policy and fiscal considerations will be discussed and further resources will be provided.

Roles and Responsibilities of Ombudsmen within HCBS

Congress appropriates older Americans Act (OAA) funds for Long-Term Care Ombudsman programs to serve residents in long-term care facilities.² Long-Term Care Ombudsman Programs (LTCOPs) must adhere to the LTCOP provisions in the OAA in terms of program operation; currently, states cannot use OAA funds designated for the LTCOP to serve individuals in their own homes. The Institute of Medicine recommends that a standard of one full-time ombudsman to every 2,000 beds are met before the program expands (Institute of Medicine, 1995). Many states include assisted living and/or board and care facilities in their HCBS array. Residents of board and care facilities and assisted living have access to LTCO programs. This report focuses on services provided outside of facilities and uses the acronym HCBS to refer to services for individuals in their own homes and communities outside of facilities.

To date, there are no standardized best practices for Ombudsmen serving individuals in their own homes. However, the National Association of State Long-Term Care Ombudsman Programs (NASOP) issued a paper entitled *Guidance for Long-Term Care Ombudsman Programs Participation in Developing Consumer Advocacy Programs* (NASOP). NASOP suggests six areas to consider when making decisions about appropriate roles for LTCOPs in advocacy programs. These areas include 1) Structure of the Office of State LTCOs and Elements of the Host(s) Agency for State and Local Entities; (2) Qualifications of Representatives; (3) Legal Authority; (4) Resources; (5) Individual Client Advocacy Services; (6) Systemic Advocacy Work.

¹ The National Long-Term Care Ombudsman Resource Center website can be found at <http://www.ltcombudsman.org>.

² “Long-term care facilities” refer to specific facility classifications as defined under the Older Americans Act. For a detailed definition, please visit: http://www.aoa.gov/AoA_programs/OAA/oa_full.asp#sec_102.

“Individual Client Advocacy Services” is particularly important for Ombudsmen working in in-home services. Guidelines within this area include the following:

- ▶ Will an emphasis continue to be placed on empowering the individual and working with citizen organizations?
- ▶ Will the expansion decrease the availability and accessibility of services under the existing LTCOP?
- ▶ How will the program reach out and become visible?
- ▶ Will volunteers be an appropriate resource for advocacy?
- ▶ Will the complaint handling and advocacy strategies be compatible with the current program?
- ▶ What new relationships are needed with regulatory, provider and payer groups?
- ▶ How will outcomes and satisfaction be determined?
- ▶ What types of educational resources and training will be needed?

NASOP suggests that, “if these questions cannot be affirmatively answered, these issues can seriously undermine the operation of the LTCOP embodied in the Older Americans Act; unless the factors that prevent an affirmative answer are changed, the LTCOP should not expand its role” (NASOP, 2000).

The National Association of State Units on Aging (NASUAD) also published a report in conjunction with the National Consumer Voice for Quality Long-Term Care entitled *Charting the Long-Term Care Ombudsman Program’s Role in a Modernized Long-Term Care System*.³ This paper lists roles for HCBS advocacy programs focusing on care provided in people’s homes. (*Note: Specific state advocacy initiatives will be discussed in the Advocacy section*).

Roles of Home and Community Based Service Advocacy Programs

Systems Advocacy	Individual Advocacy
Systems advocacy coalition work: defining quality, advocating for additional funds for services and additional services to meet the needs of individuals receiving in-home care.	Help individuals know what quality care is and what to expect from service providers.
Develop a memorandum of understanding between the LTCOP and the Medicaid Waiver program and any other programs that clarifies roles, complaint intake procedures, and decisions about who responds.	Help individuals clarify issues of concern.
Hold providers accountable for fulfilling their mandated responsibilities.	Be prepared to handle a range of complaint issues in addition to care, such as housing, transportation, frequency of services, caregiver assignments, and workers who do not report to work in an individual’s home.

³ The National Association of State Units on Aging report can be found at (<http://ltcombudsman.org/sites/default/files/Charting-the-LTCO-Program-Role-in-Modernized.pdf>).

Roles of Home and Community Based Service Advocacy Programs

Systems Advocacy	Individual Advocacy
Hold state waiver programs and home care programs accountable for fulfilling their responsibilities.	Expand the range of information and assistance content areas and resources utilized by LTCO.
Protect and uphold rights, being sure that protections are in place and requiring providers to inform recipients of their rights.	Empower individuals and provide education about rights, including the individual's right to choose.
Identify issues patterns in the community, at the individual advocacy level, and then take those issues to the systems level.	Assist individuals in knowing how to talk with care providers, who to involve, offer support and guidance in resolving issues.
Be involved in regulatory and corporate decisions, such as the ability of providers with histories of non-compliance in nursing homes to become providers of home care services.	Make referrals to adult protective services and remind providers of their reporting responsibilities.
Advocate for adequate nursing home funding for residents who are not in transition.	Avoid taking on the adult protective services role in the process of handling individual complaints.
Promote mental health ombudsman program and other ombudsman programs.	Be vigilant regarding financial exploitation or abuse that may involve the service provider as well as the individual receiving home care.
	Relate to area agencies on aging (AAA) in a different way when they are gatekeepers for eligibility and services and sometimes are also responsible for service delivery. In representing individuals, the LTCO may be required to take issue with a service provided by a AAA.
	Be aware of issues of personal safety for individual LTCO who may go into someone's home. This is a different setting than a board and care facility.

State Comparison of the Ombudsmen role in HCBS

Ombudsman programs have some differences in placement and structure in the 50 states, U.S. Territories and the District of Columbia. These differences across LTCOPs carry through to their involvement in HCBS. In those States in which the Long Term Care Ombudsmen provide in-home advocacy services, it is most often authorized through state law. States have expanded LTCOP into HCBS through various roles as elaborated below.

Most States with expanded responsibilities for the LTCOP have laws authorizing the expansion and have grant funding or additional state or federal (non-OAA) funding to support these activities. Some states have additional state statutes or other provisions that expand the jurisdiction and/or role of the LTCOP. A 2007 report from the National Ombudsman Resource Center shows that 12 states are authorized or mandated under state law to expand services to in-home settings (NORC/NASUAD,

2007).⁴ Since the report was published, the District of Columbia has also expanded its ombudsman duties to cover in-home care.

State Long-Term Care Ombudsman Programs with Home Care Responsibility	
State	Website Link
Alaska	http://www.akoltco.org/
District of Columbia	http://www.aarp.org/states/dc/LCE/
Idaho	http://www.idahoaging.com/ombudsman/index.html
Indiana	http://www.in.gov/fssa/da/3474.htm
Maine	http://www.maineombudsman.org/
Minnesota	http://mn.gov/dhs/
Ohio	http://aging.ohio.gov/services/ombudsman/
Pennsylvania	http://www.portal.state.pa.us/portal/server.pt/community/ombudsman/17989
Rhode Island	http://www.alliancebltc.com/page2.php
Vermont	http://www.vtlegalaid.org/our-projects/vermont-long-term-care-ombudsman/
Virginia	http://www.vda.virginia.gov/ombudsman.asp
Wisconsin	http://www.dhs.wisconsin.gov/aging/boaltc/ltcombud.htm
Wyoming	http://www.wyomingseniors.com/services/long-term-care-ombudsman

Of the states authorized to provide services in individual’s homes, their LTCOP has expanded to provide services in other arenas as well.

Individuals with the following services have access to Long-Term Care Ombudsman services:

States Offering LTC Ombudsman by Service Area	
Services	States
State-funded home care	AK, ME, MN, OH, RI, VA, WI
Home health agency services	AK, ME, MN, OH, RI, VA
Older Americans Act home care programs	AK, ME, MN, VA
Private pay home care	AK, ME, MN, OH, VA
Adult day services	MN, OH
Hospice and public housing	AK
Relocation follow-up	PA

⁴ While this report was published in 2007, it remains the latest comprehensive listing of state ombudsman programs with home care responsibility.

There are five states where the ombudsman program is permitted (though not required) to investigate HCBS complaints from individuals receiving services in personal homes, including Alaska, Idaho, Minnesota, Pennsylvania, and Rhode Island (NORC/NASUAD 2007). Currently, only Rhode Island has ombudsman program staff dedicated to handling home care complaints; the Minnesota and Pennsylvania ombudsman programs use volunteers in home care advocacy work (NORC/NASUAD, 2007). A few states have ombudsman programs offering ombudsman services for individuals living with mental illness and developmental disabilities in HCBS settings. These programs are not part of the LTCOP. Wyoming and Washington State have a mental health ombudsman program, for example.

Advocacy and Fiscal Considerations

Advocacy

Of the 12 states that have home care responsibility according to the 2007 report by NORC/NASUAD, four state ombudsman programs have engaged in various advocacy efforts to improve home care quality and accessibility on a systems level.

State Long-Term Care Ombudsman Programs Advocacy	
Advocacy Component	States
Home care task forces	IN, MN, RI
Legislative initiatives (draft legislation, meet with representatives)	ME, MN
Public forums, seminars, workshops	ME, RI
Training to staff of home care agencies re: rights	RI

The 2007 report by NORC/NASUAD is the most recent report of LTCO services in home care settings. However, many state LTCO programs have expanded systems advocacy (which includes in-home care systems advocacy) largely because so many issues cut across various service settings. For example, in Washington State, the State LTCO was a co-signer in the voter's guide statement in support of state initiative to increase caregiver training standards for all long term care workers. Additionally, LTCO programs frequently advocate for state budgets that fully fund all long term care services as opposed to advocacy for one group of people over another.

Partnerships

As a result of a LTCOP Strategic Directions Work Group Meeting several recommendations were made regarding programs, agencies, and service partners the LTCOP should interface with related to ensuring adequate quality home and community based care (Charting the LTCOP, n.d., p. 6), including:

- ▶ Area Agencies on Aging gatekeeper programs
- ▶ Regulatory services for home care providers
- ▶ Medicaid agency
- ▶ Adult Protective Services

- ▶ Aging and Disability Resource Centers (ADRCs)
- ▶ Quality Improvement Organizations: The 9th scope of work will have a focus on transitioning people out of hospitals as well as other factors relevant to hospitalization.
- ▶ County Department of Social Services
- ▶ Mental health organizations
- ▶ Legal counsel with elder and disability expertise
- ▶ Provider associations
- ▶ Public housing for seniors
- ▶ Senior centers
- ▶ Citizen advocacy organizations
- ▶ Centers for Independent Living
- ▶ Disability advocates such as ADAPT and others

Fiscal Considerations

Funding for ombudsman programs with responsibility for home care advocacy comes from a variety of sources.

State Long-Term Care Ombudsman Programs Funding Sources

Funding Source	States
State general funds	AK, ME, MN, OH, PA, RI, VT, VA, WI, WY
Medicaid waiver funds	VT
Medicaid administrative funds	ME, WI
Facility-based provider fees	OH
Grant funds/fundraising	RI
Funds dedicated to home care advocacy	RI, VT, WI

The LTCOP Strategic Directions Work Group also identified the following resources as potential funding sources. These funding options may only apply to certain populations, may require special state action, or may not currently be available:

- ▶ Expansion of Title VII of the Older Americans Act and funds via Congressional action
- ▶ Discreet funding under the Older Americans Act to support home care LTCOPs
- ▶ Money Follows the Person (MFP) initiatives
 - ❑ MFP Demonstration Project funds are limited to serving Medicaid-eligible individuals who are transitioning from institutions to community-based settings

- ▶ Quality Improvement Organization funding for Medicare recipients

The LTCOP Strategic Directions Work Group described several potential barriers to acquire the financial and human resources necessary for LTCO programs to advocate for HCBS. Some of these constraints include (Charting the LTCOP, n.d., p. 7):

- ▶ Within a short time span (days or weeks) individuals receiving home care may change where they live or their services, making it difficult to estimate how many LTCO are needed to provide home care. (Traditionally, LTCO programs have estimated the number of ombudsmen needed based on the number of beds in nursing homes or board and care or assisted living; there is not a fixed number to use as a base in home care).
- ▶ LTCOPs that are engaged in home care advocacy can track time per case and obtain an average amount of time; however, this number is not associated with the potential need for ombudsman services.
- ▶ The twelve LTCOPs that are in home care differ in how they operate, which complicates identifying a way to determine resource needs for other states.

Conclusion

Long-term care ombudsmen have been discussing the need for advocacy on behalf of individuals receiving home and community based care for more than a decade, as they are increasingly seeing the individuals they serve move from one setting into another (Charting the LTCOP, n.d., p. 4). The need for advocacy and the role of the LTCOP in HCBS continues to be a relevant dialogue across all states.

Resources

Administration on Aging, AGing Integrated Database (AGID).

AoA/AGID, 2011. <http://www.agidnet.org/CustomTables/NORS/Results/>.

A Primer for State Aging **Directors** and Executive Staff: State Long Term Care Ombudsman Program. NASUAD/NORC.

http://www.nasuad.org/documentation/nasuad_materials/NASUAD%20Ombudsman%20Report%20final.pdf.

Charting the Long-Term Care Ombudsman's Role in a Modernized Long-Term Care System

Long-Term Care Ombudsman Program Strategic Directions Work Group Meeting Report. Prepared by NASUAD. http://www.nasuad.org/documentation/ombudsman/ChartingLTCOP_Role.pdf.

Code of Ethics for Long-Term Care Ombudsmen

Developed by National Association of Long Term Care Ombudsman Programs.

<http://www.ltcombudsman.org/sites/default/files/library/documents/NASOP-code-of-ethics.pdf>.

Home Care Ombudsman Programs Status Report: 2007

National Ombudsman Resource Center/NASUAD. (2007). *State Long-Term Care Ombudsman Programs with Home Care Responsibility*. <http://www.ltombudsman.org/sites/default/files/Home-Care-Ombudsman-Programs-Status-Report-2007.pdf>.

National Association of State Long Term Care Ombudsman Programs

(2000). Guidance for Long Term Care Ombudsman Program: Participation in Developing Consumer Advocacy Programs. <http://www.nasop.org/papers/4.pdf>.

Ombudsmen Compendium

<http://www.ltombudsman.org/library/ombudsman-compendium>. Includes information and samples of recruitment, training, and retention materials

Ombudsman Program Involvement in Nursing Home Transition Activities: A Strategy Brief

(December 2004) http://www.nasuad.org/ombudsman/ombudsman_resources.html.

Real People, Real Problems, an Institute of Medicine study of the Long-Term Care Ombudsman Program

(1995). Institute of Medicine. <http://www.nap.edu/openbook.php?isbn=NI000028>.

Strategy Brief: Ombudsman Program Connections to Home and Community Based Services

Report on National Dialogue Forum #1. (2004). Prepared by NASUAD. Retrieved from <http://www.ltombudsman.org/sites/default/files/Connections-to-Home-and-Community.pdf>.

The National Long-Term Care Ombudsman Resource Center (NORC)

<http://www.ltombudsman.org/about-ombudsmen>

The Role of the Long Term Care Ombudsman Program in Home Care Advocacy Status Report (2007).

www.ltombudsman.org/ombudsman-support/program-management

Washington Primary Voters' Guide

(2012). Washington Secretary of State.

<https://weiapplets.sos.wa.gov/MyVote/OnlineVotersGuide/Measures?electionId=26&countyCode=x&ismyVote=False#ososTop>